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Approved For Release 2005/11/21 : CIA-RDP75-00793R000300160054-1

OGC 73-1103

19 June 1973

MEMORANDUM FOR: Legislative Counsel

SUBJECT: H.R. 8152 - Amendment to Title I of the
Omnibus Crime Control and Safe Streets
Act of 1968

REFERENCE: Memo fr [redacted] to Multiple Addressees,
dtd 19 June 73, Same Subj

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25X1D

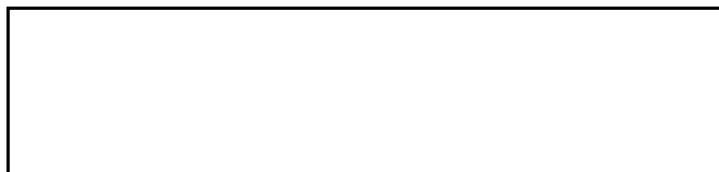
1. I reviewed the Holtzman amendment with Thomas Madden, General Counsel, Law Enforcement Assistance Administration (LEAA), who was thoroughly familiar with this as well as the types of assistance we have provided LEAA in the past. Specifically, he was aware of the [redacted] we had turned over to LEAA. It was Madden's opinion that the Holtzman amendment would not prevent this type of assistance in the future. He referred to section 513 of H.R. 8152 which authorizes the LEAA to request any agency to supply statistics and data, program reports, and other material as LEAA deemed necessary to carry out its functions. Further, each such agency is authorized to cooperate with LEAA to the extent permitted by law. Mr. Madden felt they would be able to construe the Holtzman amendment and, if necessary, section 513 to permit future cooperation by the Agency. He was aware of the prohibitions governing the Agency and was familiar with the training of police problem raised by Congressman Koch.

2. Mr. Madden further indicated that in all likelihood the Senate will pass a slightly different bill which will delete all of the House bill and the Holtzman amendment might disappear. Also he agreed that if the opportunity presented itself they would attempt to put in some clarifying legislative history to ensure that there was no intent to prohibit passage by the Agency of information or technology which would be useful for LEAA to have. He agreed that any active participation to include training would probably be inappropriate.

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3. In view of the above, it would appear that the Agency should take no action and if requested for views should generally indicate that we either have no position or have no objection.

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Acting General Counsel

cc: DDO
DDM&S

OLC 73-0731

19 June 1973

MEMORANDUM FOR: Deputy Director for Operations
Deputy Director for Management and Services
General Counsel

SUBJECT: H.R. 8152 - Amendment to Title I of the Omnibus
Crime Control and Safe Streets Act of 1968

1. Attached for your information is an excerpt from yesterday's Congressional Record covering House approval of an amendment which is directed at CIA. The basic legislation (H.R. 8152) amends Title I of the Omnibus Crime Control and Safe Streets Act of 1968. The floor amendment was not considered in committee and was offered on 18 June by Miss Holtzman. Its effect is to take away the authority of the Law Enforcement Assistance Administration to use the available services, equipment, personnel, and facilities of CIA in carrying out the Administration's functions under the Act.

2. The legal effect of the Holtzman amendment falls somewhat short of the colloquy which appears to have been prepared with a broader bill in mind (H.R. 8432). The Koch bill would cut off any direct or indirect CIA assistance to State or local government law enforcement activities and thereby prohibit communication of foreign intelligence information through the FBI to local government units on narcotics, terrorist bomb threats, etc. The Koch bill has been referred to House Armed Services Committee since it is in the form of an amendment to the National Security Act of 1947. We are currently drafting an Agency position on the bill for submission to Chairman Hebert.

3. H.R. 8152 passed the House yesterday and should be referred to the Senate Judiciary Committee shortly. Suggestions for an Agency position to be taken with the Senate Judiciary Committee is herewith requested on a priority basis.

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under the bill's language, any judge worth his salt would throw the case out so fast it would make your head swim.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KEATING).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. RODINO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 227, noes 162, present 1, not voting—as follows:

[Roll No. 135]

AYES—227

Abdnor	Goldwater	Pritchard
Andrews, N.C.	Goodling	Rule
Andrews	Green, Oreg.	Walters
N. Dalk	Gross	Wendell
Archer	Grover	Res. La.
Arends	Gubser	Rhodes
Armstrong	Gunter	Rinaldi
Dafalis	Guyer	Robert
Baker	Haley	Robinson, Va.
Beard	Hammer-	Robison, N.Y.
Bell	schmidt	Rogers
Bevill	Hanrahan	Roncallo, N.Y.
Bowen	Hansen, Idaho	Rose
Bray	Harsha	Rousselot
Breaux	Harvey	Runnels
Brinkley	Hastings	Ruth
Broomfield	Hébert	St Germain
Brotzman	Heinz	Sandman
Brown, Mich.	Henderson	Sarasin
Brown, Oh.	Hillis	Satterfield
Broyhill, N.C.	Hinshaw	Saylor
Broyhill, V.	Hogan	Scherle
Buchanan	Holt	Schneebeli
Burgener	Horton	Sebelius
Burke, Fla.	Hosmer	Shipley
Burleson, T.	Huber	Shoup
Butler	Hudnut	Shriver
Byron	Hunt	Shuster
Camp	Hutchinson	Sikes
Casey, Tex.	Ichord	Skubitz
Cederberg	Jarman	Smith, N.Y.
Chamberlain	Johnson, Colo.	Snyder
Chappell	Johnson, Pa.	Spence
Clancy	Jones, N.C.	Stanton
Clark	Keating	J. William
Clausen	Kemp	Steele
Don H.	Ketchum	Steelman
Clawson, Del.	Kuykendall	Steiger, Ariz.
Cleveland	Landrum	Steiger, Wis.
Cohen	Latta	Stevens
Collier	Lent	Stubblefield
Collins, Tex.	Lott	Sullivan
Conable	Lujan	Symms
Conlan	McClary	Talcott
Cotter	McCollister	Taylor, Mo.
Crane	McDade	Taylor, N.C.
Daniel, Dan	McEwen	Teague, Calif.
Daniel, Robt.	McKinney	Teague, Tex.
W., Jr.	Madigan	Thomson, Wis.
Davis, Ga.	Mahon	Thone
Davis, Wis.	Mallary	Tiernan
Delaney	Maraziti	Towell, Nev.
Dellenback	Martin, Nebr.	Treen
Dennis	Martin, N.C.	Vander Jagt
Derwinski	Mathis, Ga.	Veysey
Devine	Mayne	Waggoner
Dickinson	Mazzoli	Walsh
Dorn	Michel	Wampler
Downing	Milford	Ware
Dulski	Miller	White
Duncan	Mitchell, N.Y.	Whitehurst
du Pont	Mizell	Whitten
Frienborn	Montgomery	Widnall
Fshleppan	Moorhead,	Williams
Findley	Calif.	Winn
Fish	Myers	Wright
Ford, Gerald	Nelsen	Wyder
Forsythe	Nichols	Wylie
Fountain	O'Brien	Wyman
Frenzel	Parris	Young, Alaska
Frey	Passman	Young, Fla.
Froehlich	Pettis	Young, Ill.
Fulton	Peyser	Young, S.C.
Fuqua	Pickle	Young, Tex.
Gettys	Pike	Zion
Gialmo	Powell, Ohio	
Gillman	Preyer	
Ginn	Price, Tex.	

NOES—162

Abzug	Gibbons	Natcher
Addabbo	Gonzalez	Nedzi
Alexander	Grasso	Obey
Anderson,	Gray	O'Hara
Calif.	Green, Pa.	Patman
Anderson, Ill.	Griffiths	Patten
Annunzio	Gude	Pepper
Ashley	Hamilton	Perkins
Aspin	Hanley	Podell
Barrett	Hanna	Price, Ill.
Bennett	Hanson, Wash.	Rangel
Bergland	Harrington	Rees
Biaggi	Hays	Reid
Blester	Hechler, W. Va.	Reuss
Bingham	Heckler, Mass.	Rodino
Boggs	Helstoski	Roe
Boland	Hicks	Roncalio, Wyo.
Bolling	Holifield	Rooney, Pa.
Brademas	Holtzman	Rosenthal
Breckinridge	Howard	Rostenkowski
Brooks	Hungate	Roush
Brown, Calif.	Johnson, Calif.	Roy
Burke, Mass.	Jones, Ala.	Roybal
Burlison, Mo.	Jones, Okla.	Sarbanes
Burton	Jones, Tenn.	Seiberling
Carney, N.Y.	Jordan	Sisk
Carney, Ohio	Kasten	Slack
Collins, Ill.	Kastenmeier	Smith, Iowa
Conte	Kazen	Staggers
Conyers	Kluczynski	Stanton
Corman	Koch	James V.
Coughlin	Kyros	Stark
Cronin	Leggett	Stokes
Daniels	Lehman	Stratton
Dominick V.	Long, La.	Stuckey
de la Garza	McCloskey	Studds
Dellums	McCormack	Symington
Denholm	McFall	Thornton
Dent	McKay	Udall
Diggs	McSpadden	Ullman
Dingell	Macdonald	Vanik
Donohue	Madden	Vigorito
Drinan	Mann	Waldie
E. Chardt	Matsunaga	Whalen
Edwards, Calif.	Meeds	Wilson,
Ellis	Melcher	Charles H.,
Esch	Metcalfe	Calif.
Evans, Colo.	Mezvisinsky	Wilson,
Evins, Tenn.	Minish	Charles, Tex.
Fascell	Mink	Wolf
Flood	Mitchell, Md.	Wyatt
Flowers	Moakley	Yates
Foley	Mollohan	Yatron
Ford,	Moorhead, Pa.	Young, Ga.
William D.	Morgan	Zablocki
Fraser	Murphy, Ill.	
Gaydos	Murphy, N.Y.	

PRESENT—1

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NOT VOTING—43

Adams	Fish	O'Neill
Ashbrook	Flynt	Owens
Badillo	Frelinghuysen	Quillen
Blackburn	Hawkins	Rarick
Blatnik	King	Riegle
Brasco	Landgrebe	Rooney, N.Y.
Burke, Calif.	Litton	Ruppe
Carter	Long, Md.	Ryan
Chisholm	Malliard	Schroeder
Clay	Mathias, Calif.	Thompson, N.J.
Cochran	Mills, Ark.	W. Deerlin
Culver	Minshall, Ohio	W. G. W.
Danielson	Mosher	Wilson, Bob
Davis, S.C.	Moss	
Edwards, Ala.	Nix	

So the amendment was agreed to.
The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MISS HOLTZMAN

Miss HOLTZMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Miss HOLTZMAN: On page 36, line 7, insert immediately after "Federal Government" the following: "not including the Central Intelligence Agency."

(Miss HOLTZMAN asked and was given permission to revise and extend her remarks.)

Ms. HOLTZMAN. Mr. Chairman, my amendment is very simple. It would prohibit from engaging in local law enforcement

activities under the auspices of the Omnibus Crime Control and Safe Streets Act.

As we all know, the CIA is not authorized to engage in domestic law enforcement activities under the statute creating it—the National Security Act of 1947.

Nonetheless, the CIA has been training and working with local law enforcement agencies throughout the country—citing as its authority to do so section 508 of title I of the Omnibus Crime Control and Safe Streets Act which created LEAA. This provision is almost identical to section 508 of the bill we are considering today.

The domestic activity of the CIA, of which I learned only last week, was not brought to the attention of the Committee on the Judiciary during its deliberations on H.R. 8152. It is clear to me, however, that the House Judiciary Committee never contemplated that section 508 would permit the CIA to engage in such activities.

The activities of the Central Intelligence Agency under LEAA have been documented by the General Accounting Office, by letters from James R. Schlesinger, Jr., former Director of the CIA, and by other Members of this House. I should also point out that it was through the efforts of my distinguished colleague from New York (Mr. Koch) that the involvement of the CIA in these activities came to the attention of the House in the first place.

Under the color of the Safe Streets Act the CIA has given the following kind of aid to about a dozen city and county police agencies throughout the country: instruction in record handling, clandestine photography, surveillance of individuals, detection and identification of metal and explosive devices and analysis of foreign intelligence data. I might add it has carried out these activities without having been requested to do so by the Administrator of LEAA as section 508 of both the existing legislation and the bill we are considering today requires. In New York City alone 14 policemen were given briefings on the analysis and processing of foreign intelligence information.

An even more troublesome problem is that although the CIA has been apparently restricting itself to training activities and technical assistance under title I of the 1968 act, the language of that statute as well as the provision before us is sweeping enough to authorize the CIA to use its own personnel in the actual performance of local law enforcement activities.

It is perfectly clear that whatever activities the CIA has performed or may perform in connection with local law enforcement efforts, such activities could more appropriately be carried out by other Federal agencies such as the FBI.

For this reason, the Justice Department has advised me that excluding the CIA from participation in local law enforcement activities would not jeopardize the functioning of local law enforcement agencies or the functioning of LEAA.

There is no need for the CIA involvement in local law enforcement activities and to permit such involvement

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creates dangers of enormous proportions to this country. Recent events, such as the burglary of the office of Daniel Ellsberg's psychiatrist, demonstrate that CIA involvement in domestic law enforcement activities can abridge constitutional rights and jeopardize the integrity of the CIA itself. In fact, it is significant that the CIA involvement in the Ellsberg matter came in the form of "technical assistance"—the same kind of assistance supposedly provided by the CIA to local law enforcement agencies.

My amendment would prevent such dangers from happening by limiting the activities of the CIA to areas of its legitimate concern and preventing it from diverting its resources and attention to local law enforcement.

I therefore respectfully urge the adoption of this amendment which is wholly in keeping with the spirit and purpose of the Omnibus Crime Control and Safe Streets Act, and prevents CIA involvement in local law enforcement.

Mr. RODINO. Mr. Chairman, will the gentlewoman yield?

Miss HOLTZMAN. I am happy to yield to the chairman, the distinguished gentleman from New Jersey (Mr. Rodino).

Mr. RODINO. Mr. Chairman, I would like to state that the amendment offered by the gentlewoman from New York (Miss HOLTZMAN) is one that I think is in keeping with the true purpose of the act, and that it remedies a deficiency that has been overlooked. I certainly will accept the amendment offered by the gentlewoman from New York.

Miss HOLTZMAN. I thank the gentleman.

Mr. HUTCHINSON. Mr. Chairman, will the gentlewoman yield?

Miss HOLTZMAN. I will be happy to yield to the distinguished ranking minority member on the committee.

Mr. HUTCHINSON. Mr. Chairman, I thank the gentlewoman for yielding to me.

Mr. Chairman, certainly the CIA has no function in our domestic law enforcement. If the CIA has been engaging in such activities, citing any part of the LEAA law as their authority, that matter should be clarified. I can see absolutely no harm in the amendment offered by the gentlewoman from New York. I think that it clarifies the law. Therefore, Mr. Chairman, I would indicate my support for the amendment offered by the gentlewoman from New York (Miss HOLTZMAN).

Miss HOLTZMAN. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Miss HOLTZMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY Mr. FLOWERS

Mr. FLOWERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLOWERS: On page 42, amend section 518 by adding the following new subsection after line 22:

"(b) Notwithstanding any other provision of law nothing contained in this title shall be construed to authorize the Administration (1) to require, or condition the

availability or amount of a grant upon, the adoption by an applicant or grantee under this title of a percentage ratio, quota system, or other program to achieve racial balance or to eliminate racial imbalance in any law enforcement agency, or (2) to deny or discontinue a grant because of the refusal of an applicant or grantee under this title to adopt such a ratio, system, or other program."

And on line 23 redesignate subsection (b) as subsection (a).

Mr. FLOWERS. Mr. Chairman, this is new language insofar as this bill is concerned. However, it is not new language insofar as the present Law Enforcement Assistance Administration law is concerned. It is a part of the current law. I would like to make that clear to my colleagues.

This is not new to the LEAA law. It is in the current law that was enacted by the Congress in 1968.

Now, how did we get into position we are in now, that this language is not a part of the committee bill?

First of all, it was left out of the administration bill which was sent up to us. It was left out partly, I think, because the administration bill was a special revenue-sharing bill. It did not contain the categorical and bloc grant approach that we have now in the current law and that we have in the committee bill that is before this Chamber.

Mr. Chairman, what the committee did with the administration bill primarily was to change this section by adding what had been proposed by various civil rights groups, sections (b) (1), (b) (2), and (b) (3) to the bill. They are found following the part that I propose to amend and I have no objection to these provisions. All testimony, and the consensus of the committee, tells us that this vastly strengthens the civil rights provisions of the LEAA law.

I say this, however, Mr. Chairman. I fear that if at the same time we are strengthening these civil rights provisions we take out this very clear prohibition on the Law Enforcement Assistance Administration, a prohibition which merely states that:

Notwithstanding any other provision of law nothing contained in this title shall be construed to authorize the Administration (1) to require, or condition the availability or amount of a grant upon, the adoption by an applicant or grantee under this title of a percentage ratio, quota system, or other program to achieve racial balance. . . .

If on the one hand we vastly strengthen the civil rights provisions, but on the other hand we are taking out what is part of the current law, I say that there can be no other reception for this by the administration, or by any group of persons around the country, than that we intend to require quotas or percentage ratios, and we ought to condition grants upon the adoption of such a system by a prospective grantee.

I say, Mr. Chairman, by taking this out of the law—and all I propose to do is to keep what is in the current law—we would be opening the door to interference of all kinds—interference of the Administration all the way down to the local police or local sheriff's de-

partment in every district around this Nation.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

I do not know if my hearing is failing me. Did the gentleman say this amendment strengthens the civil rights provisions of LEAA?

Mr. FLOWERS. I did not say that.

Mr. CONYERS. I did not think the gentleman did.

Mr. FLOWERS. I said that the other amendments we have added to this section vastly strengthened the civil rights provisions, and I said I supported those amendments.

Mr. CONYERS. Then if it does not strengthen the civil rights provisions in LEAA, could I have the temerity to ask the gentleman, does it weaken the present provisions?

Mr. FLOWERS. I do not think it is incompatible with the strengthening provisions of the bill. I do not think it either weakens or strengthens. It merely states what it says it states insofar as the current law is concerned.

Mr. Chairman, I say that this is a very simple matter that ought to be included in these amendments and the further extension of this act, and I ask my colleagues in the House to support the amendment.

Miss JORDAN. Mr. Chairman, I rise in opposition to the amendment.

(Miss JORDAN asked and was given permission to revise and extend her remarks.)

Miss JORDAN. Mr. Chairman, the gentleman from Alabama is absolutely correct. His amendment neither strengthens nor weakens the civil rights enforcement provisions in this legislation. It does confuse the civil rights enforcement provisions in this legislation.

Let us understand that the antiquota provision in the current law, but removal of that provision from the law was recommended not by the NAACP, nor by the Urban League; not by any social critics, but by the administration headed by the President, Mr. Nixon.

I ask the Members is this present administration a pro-racial quota administration?

I would suggest that the fact the Nixon administration itself recommends that we take this quota provision out of the law is proof that we now have a provision in the bill which will strengthen civil rights enforcement, a provision in the bill which will not say we cut off the funds if they simply discriminate, but that this Law Enforcement Assistance Administration must adhere to the provisions of title 6 of the Civil Rights Act of 1964, that before any funds are denied any agency or entity in terms of the charge they have discriminated must be entitled to a hearing.

The Governor of the State is the first one who must make the effort to resolve any conflict which will exist. No process, all is provided for.

Because we have the provision in the

MEMORANDUM FOR:

OJC -

On reading 508 +
513 I think Mr. Madden
would be wrong - as
513 essentially covers
coordination - I would
think we would be better
off eliminating this amendment
+ accepting a restriction in
our Act we could live with -

FORM NO. 101 REPLACES FORM 10-101 (47)
1 AUG 54 WHICH MAY BE USED. 22 June 53 EC

SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM			
UNCLASSIFIED	CONFIDENTIAL	SECRET	
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TO	NAME AND ADDRESS	DATE	INITIALS
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2			
3	DDO		✓
4			
5	OGC		
6			
ACTION		DIRECT REPLY	PREPARE REPLY
APPROVAL		DISPATCH	RECOMMENDATION
COMMENT		FILE	RETURN
CONCURRENCE		INFORMATION	SIGNATURE
Remarks: <div style="font-size: 1.2em; margin-top: 20px;">1-5 Concur in Mr. Warr's views.</div>			
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